

**REMARKS**

Entry of the foregoing amendments is respectfully requested.

**Summary of Amendments**

By the foregoing amendments claim 3 is amended, claims 15, 22, 23, 29, 31-34 and 36-40 are cancelled and new claims 42-54 are added. Accordingly, claims 3-14, 16-21, 24-28, 30, 35 and 41-54 are pending in this application, with claims 3, 24 and 42 being independent claims. Claims 8, 9, 12-14, 30 and 35 are indicated to be withdrawn from consideration.

The amendment to claim 3 finds support, for example, in claim 15 (which has been cancelled for this reason). New independent claim 42 differs from claim 3 submitted in response to the previous Office Action in that it does not recite any purine compounds. Dependent claims 43 to 54 correspond generally to a selection from dependent claims 4 to 21.

It is pointed out that the present amendments are without prejudice and disclaimer, and Applicants expressly reserve the right to prosecute the subject matter of the claim 3 in unamended form and the cancelled claims (which have been cancelled for the sole reason of saving excess claims fees) in one or more divisional and/or continuation applications.

Applicants note that entry of the present amendments is proper because no further search is required and no new issues are raised thereby. In particular, the present claims are all within the scope of the claims that have already been searched and considered by

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the Examiner.

### Summary of Office Action

As an initial matter, Applicants note that the present Office Action again fails to acknowledge the claim for priority under 35 U.S.C. § 119(a)-(d) and (f) and receipt of a certified copy of the priority document. Accordingly, Applicants respectfully request that the claim for priority and receipt of a certified copy of the priority document be acknowledged in the next communication from the Patent and Trademark Office.

Applicants note with appreciation that the claim rejections set forth in the previous Office Action appear to have been withdrawn.

Claims 3-5, 15-22, 24-29 and 36-40 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

Claims 3-6, 10, 11 and 16-22 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by EP 1 000 622 (hereafter “EP’622”).

Claims 3-6 and 16-22 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by CA abstract 87: 95916 (1977) (hereafter “CA”).

Claims 3-7, 10, 11 and 16-22 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 3,939,089 to Matsumoto et al. (hereafter “MATSUMOTO”).

Claims 3-6, 10, 11 and 16-22 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by the abstract of JP 03-133920 (hereafter “JP’920”).

Claims 3-5, 16-22 and 41 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,151,425 to Clark (hereafter “CLARK”).

**Response to Office Action**

Reconsideration and withdrawal of the rejections of record are respectfully requested in view of the foregoing amendments and the following remarks.

***Response to Rejection of Claims under 35 U.S.C. § 112, Second Paragraph***

Claims 3-5, 15-22, 24-29 and 36-40 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Specifically, the rejection alleges that the metes and bounds of the expression “cytokinins” cannot be determined from the disclosure.

This rejection is respectfully traversed. Applicants submit that the term “cytokinins” has a well-recognized meaning in the art. The meaning of “cytokinins” can be taken from, for example, [www.answers.com/topic/cytokinin](http://www.answers.com/topic/cytokinin), a copy of which is attached hereto<sup>1</sup>, where it is stated that cytokinins are “any of a class of plant hormones that promote cell division and growth and delay the senescence of leaves”.

Accordingly, the rejection of claims 3-5, 15-22, 24-29 and 36-40 under 35 U.S.C. § 112, second paragraph, is clearly without merit and should be withdrawn, which action is respectfully requested.

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<sup>1</sup> In accordance with M.P.E.P. § 609C(3), the document cited above in support of Applicants' remarks is being submitted as evidence directed to an issue raised in the mentioned Official Action, and no additional fee or Certification pursuant to 37 C.F.R. §§ 1.97 and 1.98, or citation on a FORM PTO-1449 is believed to be necessary.

***Response to Rejection of Claims under 35 U.S.C. § 102(b) over EP'622***

Claims 3-6, 10, 11 and 16-22 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by EP'622. Specifically, the rejection points to col. 1, lines 5-10, of EP'622 where adenine, hypoxanthine and guanine are mentioned as possible active ingredients of an antiviral agent. The rejection further notes that the rejected claims are drawn to compositions, wherefore the preamble and the intended use allegedly do not carry any patentable weight.

Applicants respectfully disagree with the Examiner that an antiviral agent as described in EP'622 is suitable as a composition for intensifying natural hair color and/or stimulating melanogenesis in human hair as recited in the rejected claims.

At any rate, amended claim 3 submitted herewith recites that the claimed composition also comprises an antioxidant, as previously recited in claim 15. EP'622 does not teach or suggest an antiviral composition that comprises an antioxidant, a fact which is implicitly acknowledged in the present Office Action, in which claim 15 is not rejected over EP'622 (or any of the other documents cited in the present Office Action).

Also, new independent composition claim 42 submitted herewith does not recite any of adenine, hypoxanthine and guanine and accordingly is not anticipated by EP'622 for this reason alone.

For at least the foregoing reasons, none of the claims submitted herewith is anticipated by EP'622, wherefore the claim rejections under 35 U.S.C. § 102(b) over EP'622 are moot.

***Response to Rejection of Claims under 35 U.S.C. § 102(b) over CA***

Claims 3-6 and 16-22 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by CA. The rejection alleges that the mentioning in CA of the topical application to rabbit skin of thioguanine and a concentration range thereof within the claimed range anticipates the rejected claims. The rejection further notes that the rejected claims are drawn to compositions, wherefore the preamble and the intended use allegedly do not carry any patentable weight.

Applicants respectfully disagree with the Examiner in this respect. A composition that can be applied topically to rabbit skin is not necessarily suitable as a composition for intensifying natural hair color and/or stimulating melanogenesis in human hair as recited in the rejected claims.

At any rate, amended claim 3 submitted herewith recites that the claimed composition also comprises an antioxidant, as previously recited in claim 15. CA does not teach or suggest a composition that comprises an antioxidant, a fact which is implicitly acknowledged in the present Office Action, in which claim 15 is not rejected over CA.

Also, new independent composition claim 42 submitted herewith does not recite hypoxanthine and accordingly is not anticipated by CA for this reason alone.

For at least the foregoing reasons, none of the claims submitted herewith is anticipated by CA, wherefore the claim rejections under 35 U.S.C. § 102(b) over CA are moot.

***Response to Rejection of Claims under 35 U.S.C. § 102(b) over MATSUMOTO***

Claims 3-7, 10, 11 and 16-22 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by MATSUMOTO. The rejection specifically points to col. 2, lines 5-15 of MATSUMOTO where purine, adenine, hypoxanthine, purinethiol and guanine are mentioned as possible components of etching solutions for copper and copper alloys. The rejection further notes that the rejected claims are drawn to compositions, wherefore the preamble and the intended use allegedly do not carry any patentable weight.

Applicants respectfully disagree with the Examiner in this respect. A composition that can be used as an etching solution for copper and copper alloys is apparently not necessarily suitable as a composition for intensifying natural hair color and/or stimulating melanogenesis in human hair (or for administration to a human) as recited in the rejected claims.

At any rate, amended claim 3 submitted herewith recites that the claimed composition also comprises an antioxidant, as previously recited in claim 15. MATSUMOTO does not teach or suggest a composition that comprises an antioxidant, a fact which is implicitly acknowledged in the present Office Action, in which claim 15 is not rejected over MATSUMOTO.

Also, new independent composition claim 42 submitted herewith does not recite any of purine, adenine, hypoxanthine, purinethiol and guanine and accordingly is not anticipated by MATSUMOTO for this reason alone.

For at least the foregoing reasons, none of the claims submitted herewith is anticipated by MATSUMOTO, wherefore the claim rejections under 35 U.S.C. § 102(b) over MATSUMOTO are moot.

***Response to Rejection of Claims under 35 U.S.C. § 102(b) over JP'920***

Claims 3-6, 10, 11 and 16-22 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by the abstract of JP'920. The rejection points to the recitation in JP'920 of adenine and guanine as possible components of a hair tonic. The rejection further notes that the rejected claims are drawn to compositions, wherefore the preamble and the intended use allegedly do not carry any patentable weight.

Applicants point out that amended claim 3 submitted herewith recites that the claimed composition also comprises an antioxidant, as previously recited in claim 15. JP'920 does not teach or suggest a composition that comprises an antioxidant, a fact which is implicitly acknowledged in the present Office Action, in which claim 15 is not rejected over JP'920.

Also, new independent composition claim 42 submitted herewith does not recite any of adenine and guanine and accordingly is not anticipated by JP'920 for this reason alone.

For at least the foregoing reasons, none of the claims submitted herewith is anticipated by JP'920, wherefore the claim rejections under 35 U.S.C. § 102(b) over JP'920 are moot.

***Response to Rejection of Claims under 35 U.S.C. § 102(b) over CLARK***

Claims 3-5, 16-22 and 41 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by CLARK. The rejection specifically points to col. 1, lines 45-50 of CLARK where zeatin and kinetin are mentioned as possible components of a composition that is suitable for treating inflammation and the immunological response thereto. The rejection further notes that the rejected claims are drawn to compositions, wherefore the preamble

and the intended use allegedly do not carry any patentable weight.

Applicants respectfully disagree with the Examiner in this respect. A composition that can be used as a composition for treating inflammation and the immunological response thereto is not necessarily suitable as a composition for intensifying natural hair color and/or stimulating melanogenesis in human hair as recited in the rejected claims.

At any rate, amended claim 3 submitted herewith recites that the claimed composition also comprises an antioxidant, as previously recited in claim 15. CLARK does not teach or suggest a composition that comprises an antioxidant, a fact which is implicitly acknowledged in the present Office Action, in which claim 15 is not rejected over CLARK.

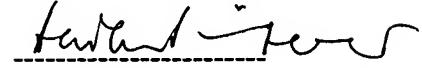
Also, new independent composition claim 42 submitted herewith does not recite any cytokinin and accordingly is not anticipated by CLARK for this reason alone.

For at least the foregoing reasons, none of the claims submitted herewith is anticipated by CLARK, wherefore the claim rejections under 35 U.S.C. § 102(b) over CLARK are moot.

### CONCLUSION

In view of the foregoing, it is believed that all of the claims in this application are in condition for allowance, which action is respectfully requested. If any issues yet remain which can be resolved by a telephone conference, the Examiner is respectfully invited to contact the undersigned at the telephone number below. In this regard, it is noted that there is no need to cancel the dependent claims that the Examiner has withdrawn from consideration, because the generic claims from which the withdrawn claims depend are believed to be allowable.

Respectfully submitted,  
Werner BERENS et al.



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cy-to-ki-nin (sītō-kīnēn) ↗

*n.*

Any of a class of plant hormones that promote cell division and growth and delay the senescence of leaves.

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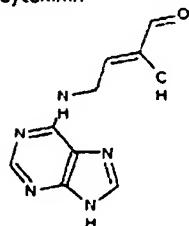
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Wikipedia

## Cytokinin



Zeatin is named after the genera of corn, "Zea" as it was first discovered in corn.

Cytokinins are a class of plant growth substances (plant hormones) active in promoting cell division. Also involved in cell growth and differentiation and in other physiological processes. Examples: kinetin, zeatin, benzyl adenine. Their effects were first discovered through the use of coconut milk in the 1940s.